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Letter dated 23 December 2011 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit the attached letter dated 9 December 2011 from the Chairperson of the African Union Commission, Jean Ping, requesting the transmission of the communiqué dated 30 November 2011 of the African Union Peace and Security Council and the report on the efforts and activities of the African Union High-level Implementation Panel on the Sudan (see annex).

I should be grateful if you could bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Please recycle

Annex to the letter dated 23 December 2011 from the Secretary-General addressed to the President of the Security Council

Letter dated 9 December 2011 from the Chairperson of the African Union Commission addressed to the Secretary-General

The Peace and Security Council of the African Union, at its 300th and 301st meetings, held on 28 and 30 November 2011 respectively, reviewed the situation in the Sudan, on the basis of the report submitted by the African Union High-level Implementation Panel on the Sudan and the briefing provided by the Joint Special Representative for the African Union-United Nations Hybrid Operation in Darfur and Joint Chief Mediator ad interim, Ibrahim Gambari, and the Special Envoy of the Secretary-General for the Sudan, Haile Menkerios.

The deliberations of the Peace and Security Council took place against the background of renewed efforts to finalize the negotiations on post-secession arrangements between the Sudan and South Sudan, address outstanding issues in the implementation of the Comprehensive Peace Agreement and promote a lasting solution to the situation in Darfur in a manner that addresses the interrelated issues of peace, justice and reconciliation in that region. In its communiqué, the Council addresses all these issues, providing guidance on how the African Union's efforts should best be pursued. The African Union High-level Implementation Panel will actively follow up on the relevant provisions of the communiqué. On my part, I recently visited Khartoum, where I had very useful discussions with President Omer Hassan al-Bashir.

Clearly, the international community can play a critical role in support of the ongoing efforts of the African Union and the overall quest for lasting peace, reconciliation and democracy in both the Sudan and South Sudan, as well as in the attainment of the objective of two viable States at peace with one another and working together on issues of mutual interest. With this in mind, the Peace and Security Council has encouraged the Commission to take, as soon as possible, all necessary steps for the reactivation of the Sudan Consultative Forum, to facilitate closer coordination and more effective support to the ongoing efforts. In that respect, the African Union intends to initiate consultations with the United Nations to examine the possibility of convening the Forum as soon as possible.

I would be most grateful if you could circulate the communiqué adopted by the Peace and Security Council and the report submitted to the Council as a document of the Security Council (see enclosures I and II). It would be very much appreciated, in the context of the close partnership between the African Union and the United Nations, if the position of the Union, as reflected in the communiqué, were duly taken into account by the Security Council when deliberating and deciding on the issues at hand.

Enclosure I

Communiqué

The Peace and Security Council of the African Union, at its 300th and 301st meetings, held on 28 and 30 November 2011 respectively, adopted the following decision on the situation in Darfur and the activities of the African Union High-level Implementation Panel on the Sudan.

The Council,

1. **Takes note** of the report of the Chairperson of the Commission on the activities of the African Union High-level Implementation Panel on the Sudan, as well as the briefings by Joint Special Representative for the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and Joint Chief Mediator ad interim Ibrahim Gambari, former President of South Africa Thabo Mbeki, Chair of the African Union High-level Implementation Panel and Special Envoy of the Secretary-General for the Sudan Haile Menkerios. The Council **also takes note** of the statements made by the representatives of the Republic of the Sudan and the Republic of South Sudan;

2. **Pays tribute** to the African Union High-level Implementation Panel and its members, former Presidents Thabo Mbeki, Abdulsalami Abubakar and Pierre Buyoya, as well as to the support team, for their commitment in the discharge of the mandate entrusted to the Panel, and **reiterates the full support of the African Union** for their efforts regarding peace, justice and reconciliation in Darfur, the outstanding issues in the implementation of the Comprehensive Peace Agreement, the negotiations on post-secession issues and democratization. The Council also **expresses its deep appreciation** to the Government of Ethiopia, particularly Prime Minister Meles Zenawi, Chair of the Intergovernmental Authority on Development, for its commitment and sustained efforts towards the promotion of peace and the resolution of the post-secession issues, including the speedy deployment of troops within the framework of the United Nations Interim Security Force for Abyei (UNISFA);

3. **Expresses its full support** to UNAMID and Mr. Gambari for the work being done in the implementation of the mission's mandate. The Council **also expresses gratitude** to the United Nations and to the Special Envoy of the Secretary-General for the Sudan, Haile Menkerios, for their invaluable contribution to and cooperation with the African Union, and to all other partners contributing to the search for peace and providing support to the African Union's efforts, in particular Norway, the United States of America, the European Union and its member States and the World Bank, as well as the African Development Bank and the International Monetary Fund, who have provided relevant expertise;

4. **Reaffirms** the hybrid nature of UNAMID and its African character, as key to the success of the mission. The Council **recognizes** the contribution of UNAMID to stabilizing the situation in Darfur, protecting civilians, expanding the space for the delivery of humanitarian assistance, supporting the voluntary return of internally displaced persons and refugees, supporting early recovery and being proactive in support of the peace process. The Council **encourages** the mission and its leadership to persevere in their efforts;

5. **Expresses appreciation** for the steps taken so far by the Government of the Sudan and the Liberation and Justice Movement in the implementation of the Doha Document for Peace in Darfur of 14 July 2011, and **encourages them** to continue to work tirelessly and in a spirit of partnership to facilitate a final, peaceful and durable solution to the conflict;

6. **Expresses concern** over continued hostilities in parts of Darfur, **calls on** the armed movements that have not yet done so to join the peace process in Darfur and subscribe to the Doha Document for Peace in Darfur, and **encourages** the Joint Chief Mediator ad interim to pursue and intensify the efforts being made in this respect;

7. **Takes note** of the intention of the Secretary-General of the United Nations to develop a road map on the peace process for Darfur in close consultation with the African Union. In this respect, the Council **reiterates** the need to fully take into account the African Union position on Darfur, as articulated in its communiqué of 29 October 2009 endorsing the report of the African Union High-level Panel on Darfur and subsequent African Union decisions on Darfur;

8. **Reiterates its support** to the efforts being made by the African Union High-level Implementation Panel, with the support of UNAMID, to facilitate the early launching of the Darfur political process, in line with all relevant African Union decisions, so as to comprehensively address the challenges of peace, justice and reconciliation in Darfur. The Council **welcomes**, in this context, the commitment of the Government of the Sudan to create an enabling environment, and **requests** the Panel and UNAMID to intensify their efforts aimed at engaging all Darfurian stakeholders with a view to achieving a sustainable peace in the region. The Council **calls upon** African Union partners, in particular the Security Council and its members, and the international community at large, to fully support this Process and take the steps expected of them to facilitate the work of the Panel and UNAMID in this respect;

9. **Expresses appreciation** to the Governments of the Sudan and South Sudan for the cooperation extended to the African Union High-level Implementation Panel, **welcomes** the progress made thus far in the post-secession negotiations, including the establishment, in December 2010, of the Joint Political and Security Mechanism, which is the first inter-State mechanism between the Sudan and South Sudan, the agreement on temporary arrangements for the administration and security of the Abyei Area and the framework agreement between the Government of the Sudan and the Sudan People's Liberation Movement (SPLM)-North on political partnership between the National Congress Party and SPLM-North and security arrangements in the Blue Nile and South Kordofan States, signed in Addis Ababa on 20 and 28 June 2011, respectively;

10. **Takes note** of the ongoing negotiations facilitated by the African Union High-level Implementation Panel on the outstanding issues, including: (i) access by the South to the oil pipelines that run through the North; (ii) transitional financial arrangements to cushion the economic shock to the Sudanese economy from the loss of revenue that accompanied the secession of the South; (iii) the division of assets and liabilities; (iv) arrears relating to oil and other outstanding matters; (v) banking and cross-border payments; (vi) trade relations; (vii) border demarcation, dispute resolution and the management of pastoralist migration across the common border; (viii) security matters, including the management of a demilitarized zone between

the two States; (ix) the management of water resources, including the Nile waters; (x) the nationality status of South Sudanese in Sudan and Sudanese in South Sudan; (xi) dispute resolution mechanisms; and (xii) the efforts to find a solution to the Abyei issue;

11. **Stresses** the primary responsibility of the leadership of the Sudan and South Sudan in ensuring that the outstanding issues are swiftly resolved, in line with the overriding and agreed principle of two viable States, at peace with and mutually supportive of one another. Accordingly, the Council and Africa as a whole **expect** Presidents Omer Hassan Al-Bashir and Salva Kiir to demonstrate the required spirit of compromise and commitment to good neighbourliness, in order to speedily conclude negotiations on these interlinked issues, as the only way for the two countries to achieve their goals in terms of security, democracy and development, and meet the most basic needs of their peoples. In the meantime, the Council **strongly urges** that the leaderships of the Sudan and South Sudan desist from any unilateral action with a negative impact on the interests, stability and development of either country, and to put into practice confidence-building measures to enhance the spirit of cooperation;

12. **Reiterates the full support of the African Union** to the agreement on Abyei, and **urges** both the Sudan and South Sudan to faithfully and unconditionally implement their obligations under the agreement. The Council **commends** UNISFA for its tireless efforts in the discharge of its mandate, and **appeals** to the United Nations and other humanitarian organizations to continue to do their utmost to provide urgent assistance to the people of Abyei;

13. **Expresses serious concern** about the continuing conflict in South Kordofan and Blue Nile, and **urges** the Government of the Sudan to facilitate the delivery of humanitarian assistance to the affected people of this region. The Council, recalling the framework agreement of 28 June 2011, **calls upon** the parties to immediately cease hostilities, permit unhindered humanitarian access and allow the return of displaced persons to their homes. The Council **reiterates** the call for both parties to immediately return to the negotiations in order to reach a peaceful settlement;

14. **Reiterates** the continued validity of the analysis contained in the report of the African Union High-level Panel on Darfur regarding the need for a holistic approach to the quest for peace, justice and reconciliation in the Sudan, taking into account the long-standing governance problems in the Sudan, especially the challenge of governing a diverse country in an equitable manner. In this respect, the Council **encourages** the African Union High-level Implementation Panel on the Sudan to pursue and intensify its engagement with the Government of the Sudan and other stakeholders in order to promote and take forward this approach, including in the context of the ongoing constitutional review and reform process. The Council **also encourages** the African Union High-level Implementation Panel to work closely with the Government of South Sudan in support of its efforts to meet the challenge of governance in a context of diversity. The Council **further encourages** the African Union High-level Implementation Panel to continue to prioritize democratization in both the Sudan and South Sudan, as a sine qua non for stability and equitable governance, bearing in mind the diversity that characterizes both countries;

15. **Underlines** the critical role that the international community can play in the attainment of the objective of two viable States, including the immediate lifting of the sanctions imposed on the Sudan, the granting of debt relief and the provision of

timely and adequate financial support to lessen the impact on the Sudanese economy resulting from the loss of substantial revenue following the secession of South Sudan, and the provision of aid and technical assistance to the new State of South Sudan, as well as political support to the holistic approach to peace. In this respect, the Council **encourages** the Commission to take, as soon as possible, all necessary steps for the reactivation of the Sudan Consultative Forum, to facilitate closer coordination of efforts and more effective support to the attainment of the objective of two viable States, at peace with one another and working together on issues of mutual interest;

16. **Decides** to remain actively seized of the matter.

Enclosure II

Report of the Chairperson of the Commission on the efforts and activities of the African Union High-level Implementation Panel on the Sudan

Introductory remarks

I hereby submit to the members of the Peace and Security Council the report of the African Union High-level Implementation Panel on the Sudan. As the Council will recall, at its 297th meeting, held on 20 October 2011, the mandate of the Panel was renewed for a further period of one year.

The report consists of two parts: the first, the body of the report, provides an overall assessment of the work of the Panel, including the progress made to promote peace, democracy and mutual viability in the Republic of the Sudan and the newly independent Republic of South Sudan. The second part, the annex to the report, consists of an activity report of the Panel covering the period since its last report to Council, which was submitted in November 2010.

Since its establishment, the Panel has worked tirelessly and has expended tremendous time and effort to address the Sudanese crisis. I would like to take this opportunity to once again reaffirm my continued support for the members of the Panel and their staff, and to commend them for their dedication and commitment.

I would like to urge the parties, namely the Governments of the Sudan and South Sudan, to reaffirm their commitment to peace and prosperity by redoubling their efforts to conclude negotiations on the outstanding issues in the Comprehensive Peace Agreement and their post-secession relations. I also urge the Government of the Sudan to renew its efforts to bring lasting peace to Darfur and to the two areas. Finally, a stable future in both countries would require the respective Governments to address the many governance challenges facing them by promoting democracy, tolerance and the management of the rich diversity in both countries.

I. Introduction

1. Two years ago, when the Peace and Security Council established the African Union High-level Implementation Panel, it provided the Panel with a mandate that covered all aspects of Sudanese affairs. The Panel identified four priority activities, namely: (i) the implementation of the recommendations in the African Union High-level Panel on Darfur report; (ii) the democratization of the Sudan, including and especially through the conduct of the general elections; (iii) the completion of the implementation of the Comprehensive Peace Agreement; and (iv) the negotiation of post-referendum arrangements between the Sudanese parties.

2. The Panel's view was, and remains, that each of these four activities is an essential and equal component for resolving the Sudanese conflicts and enabling the peoples of the Sudan and South Sudan to address their challenges of establishing democratic States that provide security and development.

II. Darfur

3. The Panel's position on Darfur, as presented to and adopted by this Council two years ago, concerned how the issues of peace, justice, reconciliation and Darfur's position in the Sudan could best be addressed. Noting that the conflict in Darfur was deep-rooted and complex, and drawing upon the evidence and opinions obtained from extensive consultations among all groups in Darfur, the Panel recommended that the issues be treated in a holistic manner by an inclusive process of negotiation that included all Darfur stakeholders, including the belligerents and the non-belligerents.

4. The Panel also recommended that the Darfur conflict be defined correctly as "the Sudanese conflict in Darfur", noting that it originated in long-standing problems of governance in the Sudan, and especially the challenge of governing a diverse country in an equitable manner. In its report, the Panel identified a legacy, inherited from the colonial period, that resulted in unequal access to power and resources across the Sudan. Since independence in 1956, successive Governments have not succeeded in overcoming this legacy, with the consequence that recurrent civil wars have occurred in different parts of the country, including in southern Sudan and Darfur. Resolving the Sudanese conflict in Darfur requires not only an inclusive and holistic settlement of those issues that have divided the people of Darfur, but, in addition, a resolution of the position of Darfur within the Sudan. In turn, that implies an inclusive national political settlement.

5. Earlier this year, in July, the Government of the Sudan and one of the Darfur opposition movements, the Liberation and Justice Movement, signed the Doha Document for Peace in Darfur in Qatar, which was intended to end hostilities between signatories and lay the basis for peace. The Panel welcomes this agreement and presses the parties to it to implement it faithfully. It also calls on the opposition movements that have not signed the agreement to do so without delay.

6. The position of the Panel on Darfur remains unchanged. Its proposal to initiate a Darfur political process, primarily as a domestic exercise to involve all Darfurians in negotiating the future of Darfur within the Sudan, remains valid. However, in the light of the adoption of the Doha Document for Peace in Darfur, which is currently being implemented, it believes that the immediate tasks are to popularize the Document, to ensure its acceptance by the population of Darfur as a whole and to persuade the remaining armed groups to sign the Document. Hopefully, these measures will bring peace to Darfur. In the new context that has emerged following the secession of South Sudan, the Darfur peace process will, of necessity, be linked to a national constitutional reform process that involves all citizens of the Republic of the Sudan in forging a new national political settlement. Indeed, a durable resolution of the Sudanese conflict in Darfur requires that a holistic agreement among Darfurians be an integral part of a national process. In turn, it will be evident that, arising from the Panel's analysis of the conflict in Darfur, such a national

political settlement will need to address the challenges of governance in conditions of diversity and the democratization of the Sudan as a whole.

III. Democratization

7. On the issue of democracy, the Panel considered that all Sudanese, whether united within a single country or in two separate nations, were not only entitled to democratic rights, but that democratic government was a sine qua non for stability and equitable governance, bearing in mind the diversity that characterizes Sudan, both north and south. It strongly felt that democratization should be considered a priority alongside the referendum on self-determination for the people of southern Sudan.

8. The Panel's concern with democratization remains. The fact that the people of southern Sudan voted overwhelmingly to establish a separate State was in part a reflection of a democratic deficit in the governance of a united Sudan. The separation of the South does not, in any way, reduce the imperative for democratic rule in both the Sudan and South Sudan.

9. On the eve of the referendum on self-determination in southern Sudan, in January 2011, the Panel addressed an audience of southern Sudanese in Juba, and stressed that the referendum constituted just one stage in the exercise in self-determination by the people of southern Sudan. It emphasized that self-determination also entailed establishing a system of government that reflected the rights and aspirations of all the people of southern Sudan.

10. For the governance of northern Sudan, democratization is no less important. The separation of the South does not lessen the governance challenges facing the Sudan: it remains a State that has failed to surmount a historical legacy of inequitable distribution of wealth and power and to meet the aspirations of all of its diverse citizens for a common sense of nationhood. Also on the eve of the referendum, the Panel addressed an audience in Khartoum, and emphasized that Sudan has a long and rich history as an African nation, characterized by diversity, and that in the event of the secession of southern Sudan, the northern part of Sudan would remain an African nation with an African heritage, faced with the challenge of establishing a democratic system of governance that would respect the diversity of the population. We stressed that, even with the separation of the south, the Sudan should define its future as an African country.

11. The Government of the Sudan has decided to conduct an inclusive constitutional review and reform process to address the issues of the democratization of the Republic of the Sudan and governance in conditions of diversity. The Panel has initiated consultations with the Government of the Sudan to see how it can support this process.

IV. Implementation of the Comprehensive Peace Agreement

12. The Comprehensive Peace Agreement and the Interim National Constitution that was derived from it have provided the essential framework for guiding the Sudan through the period from the signing of the Agreement, in January 2005, until 9 July 2011. The centrepiece of the Agreement was the referendum in southern

Sudan, which was successfully conducted, and its outcome accepted by the Government of the Sudan, in January this year. The Panel maintained contact with all the stakeholders involved in the southern Sudan referendum and intervened where necessary to help ensure the success of the referendum.

13. The referendum, its conduct and the respect for its outcome represent an outstanding success for the people of southern and northern Sudan, their Governments and the African continent. The Republic of South Sudan has been warmly received into the African community of nations, including the African Union. Membership comes with both the privileges that accrue to a sovereign nation and the responsibilities that follow to the citizens of the nation, neighbouring countries and the continent as a whole. The Panel is confident that, even as they justly and correctly value their independence, the South Sudanese have recognized the imperative of joining the African Union in their State's quest for economic and political integration of Africa.

14. While congratulating the people and Government of South Sudan, we also extend our sincere appreciation to the people and Government of the Republic of the Sudan for their extraordinarily gracious acceptance of the decision of the southern Sudanese to secede. For the Sudan, the separation of South Sudan carries very serious political and economic implications.

15. Other elements of the Comprehensive Peace Agreement are also of great importance. Although the central provision of the Agreement, which provided for the special position of southern Sudan within a united Sudan, has lapsed with the sovereign independence of the Republic of South Sudan in July, substantial provisions of the Interim National Constitution remain in place, at least until such time as the Sudan and South Sudan adopt new constitutions. Inter alia, these provisions include federal systems of government with devolution of powers to states, respect for human rights and respect for the diversity of languages and cultures.

16. Moreover, there remains unfinished business arising from the Comprehensive Peace Agreement, specifically with regard to: (i) the protocol on Abyei, (ii) the north-south border and (iii) the protocol on Blue Nile and Southern Kordofan. The completion of these obligations is not only of importance for relations between the Sudan and South Sudan, but also for internal governance within the two countries.

17. The population of Abyei contains both Ngok Dinka and Misseriya Arabs, and so as long as the area remains part of northern Sudan, the Sudan contains within its borders a population that is ethnically Dinka. Similarly, should Abyei be transferred to South Sudan, it will contain within its borders a population, both permanent and seasonal, that is ethnically Arab. Similar considerations will apply to the five disputed border areas, which contain diverse populations with ethnic and political ties both north and south of the border.

18. The Panel is working with all relevant parties to ensure the implementation of the June 2011 transitional agreement on Abyei, after which it will present proposals to the Presidents of the Sudan and South Sudan regarding the final status of Abyei.

19. In the case of Blue Nile and Southern Kordofan, the question of diversity is equally clear. Reflecting the special history and identity of the two areas, the Comprehensive Peace Agreement provided for special arrangements for their

governance, and a provision for a process of popular consultations to ascertain whether the Agreement had indeed addressed the aspirations of the people.

20. The Panel has been particularly concerned with the situation in the two areas, including both its political and security dimensions. It exerted particular efforts to try to ensure that the parties found means of resolving their differences on these issues. During June 2011, the Panel facilitated meetings that resulted in a framework agreement between the Government of the Sudan/National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM)-North that provided for political partnership and measures to resolve the problem of governance in Southern Kordofan State, end the fighting and provide security. Unfortunately, the parties have not followed up on the framework agreement. The Panel believes that the fundamental political challenges of Blue Nile and Southern Kordofan have not changed and that they are organically linked to the issues of the governance of diversity and democratization, and that the parties will return to the negotiating table and reach a settlement. It notes that the framework agreement includes a commitment by the parties to initiate an inclusive national political process.

21. The Panel stands ready to facilitate continuing negotiations between the parties on the issue of the two areas. Reflecting a provision in the 28 June framework agreement, the Panel also stands ready to act as third party, both for the facilitation of political and security negotiations and to oversee the implementation of any agreement reached. With regard to the obligations to overseeing implementation, the Panel may call on the African Union and its member States to provide necessary support, whether of a financial, personnel or political nature, through the Peace and Security Council.

22. A recent development that will further complicate the situation is the establishment of the Sudan Revolutionary Front, which says it is "resolved to overthrow the NCP regime using all available means, above all, the convergence of civil political action and armed struggle". The Front is composed of three Darfur armed groups and SPLM-North, which is involved in the conflicts in the Southern Kordofan and Blue Nile States.

V. Post-referendum arrangements

23. In June 2010, the Panel was requested by the parties to facilitate the negotiations on post-referendum arrangements. In those negotiations, the Sudanese parties converged on an overriding principle, namely that they "are committed to establishing and sustaining a constructive and peaceful relationship between northern and southern Sudan, which will promote the viability of both the south and the north". The Panel contends that a common commitment to "two viable States" is by necessity the only principle on which the Sudan and South Sudan can achieve their respective national goals.

24. There is a host of matters on which agreement between the Sudan and South Sudan is essential. Among these are the matters of: (i) access by South Sudan to the oil pipeline that runs through the Sudan; (ii) financial transitional arrangements to cushion the economic shock to the Sudanese economy from the loss of revenue that accompanied the secession of South Sudan; (iii) the division of assets and liabilities; (iv) trade relations; (v) border security; (vi) the management of pastoralist migration across the common border; (vii) the management of water resources, including the

Nile waters; and (viii) the residency status of South Sudanese in Sudan and Sudanese in South Sudan. The Panel is continuing to facilitate negotiations between the Sudan and South Sudan on these issues.

25. The principle of "two viable States" applies also to the relations between the two countries and their respective aid donors and creditors. The financial viability of Sudan should be of concern not only to the Sudanese people, but also to neighbouring countries, including South Sudan, and to the international community. It is deeply unfortunate that, at the time when Sudan is suffering a severe economic shock, it is unable to rely on the institutions and mechanisms for international financial support that would normally be available to a country in such circumstances. As a matter of both principle and good practice, international financial restrictions imposed on the Sudan should be lifted without delay and expedited debt relief should be provided.

VI. Conclusion

26. As mandated by the Peace and Security Council, during the last two years the Panel has been actively engaged in all aspects of Sudanese political affairs. It has witnessed the establishment of a new African sovereign nation, the Republic of South Sudan. However, the objectives of the Panel, which are in turn the goals of the African Union and indeed the continent as a whole, have yet to be fulfilled. The Sudanese conflict in Darfur cannot be fully resolved until there is an inclusive political process addressing the issues in a holistic manner and until the issue of Darfur's position within the Sudan is addressed as part of a national constitutional process. The process of democratization, in the Sudan and South Sudan, has yet to be completed. Critical issues remain outstanding from the implementation of the Comprehensive Peace Agreement, notably Abyei, the two areas of Blue Nile and Southern Kordofan and the border. Important issues on the agenda of the post-referendum negotiations remain to be resolved, in such a way that the parties can achieve their agreed goal of establishing two viable States.

27. We are encouraged that the President of the Sudan and the President of South Sudan have recently reiterated their joint determination never to return to war. However, we also note with concern the substantial list of issues that remain on the negotiating table, the ongoing active armed hostilities in Blue Nile and Southern Kordofan, the slow and difficult progress in implementing the 20 June agreement on interim arrangements for Abyei and the economic hardships affecting citizens in the Sudan and South Sudan.

28. There is no alternative but to reach agreement, in a comprehensive and expedited manner, on all of the outstanding issues. The alternative is not merely the continuation of the existing armed conflict in the two areas, but the escalation of conflict elsewhere in both countries and between the two countries. Such a conflict would make it impossible for either the Sudan or South Sudan to be governed in a manner that meets even the most basic requirements of their citizens for security, development and democratic representation. The neighbouring countries and the continent as a whole would surely be directly affected.

29. The Sudan and South Sudan have resolved to pursue their respective futures as two separate sovereign nations. In this context, the agreed overriding principle of establishing and sustaining a constructive and peaceful relationship between the

Sudan and South Sudan, which will promote the viability of both countries, is essential for each one. We urge the leaders of both nations to act in the spirit of this commitment.

30. Equally essential is for all to recognize that the Sudan and South Sudan are equally African nations, characterized by challenges of governance and development common to countries across our continent. Each must govern a diverse nation that has experienced recurrent conflict over more than half a century and each must undertake its own national process of democratization accordingly.

31. Lastly, although the challenges facing the Sudan and South Sudan are not unfamiliar, in important respects they are exceptional. There are few countries on this continent that have such bitter histories of division and conflict. Newly independent South Sudan has very modest institutions and extremely low human development indicators. The Sudan faces an extremely severe economic shock at a time when it is debarred from the sources of international financial assistance that would normally be available to cushion such adversity. The exceptional nature of these challenges, in turn, makes it incumbent upon the African continent, and international donors and creditors, to exert commensurate efforts to ensure that the two nations emerge from the current difficult period as full and valued members of the African community of nations and the international community as a whole.

Annex to the report on the activities undertaken by the African Union High-level Implementation Panel on the Sudan (November 2010-October 2011)

I. Introduction

1. The African Union High-level Implementation Panel on the Sudan was constituted in October 2009 by the African Union Peace and Security Council at its meeting in Abuja, held at the level of Heads of State and Government. It was mandated to facilitate the implementation of the recommendations of the African Union High-level Panel on Darfur and the completion of the Comprehensive Peace Agreement, as well as to promote democratization in the Sudan. Subsequently, in June 2010, the parties to the CPA (the Government of the Sudan and the Sudan People's Liberation Movement) mandated the Panel on the Sudan with the task of facilitating negotiations on post-referendum arrangements. On behalf of the African Union, the Panel has also sought to coordinate international engagement in the Sudan. Its mandate was renewed for a further year in October 2010. In October 2011, the mandate was once again renewed for another year.

II. Implementation of the recommendations on Darfur of the Panel

2. The African Union High-level Panel on Darfur was constituted in March 2009 and submitted its report in September of that year. The report was adopted by the Peace and Security Council, at its meeting in Abuja, on 29 October 2009. The Security Council took note of the report in December 2009.

1. Darfur political process

3. The Panel has continued to make efforts for the launching of the Darfur political process as complementary to the Darfur peace talks between the Government of the Sudan and the Darfur armed movements. The Darfur political process is conceived as a process that allows Darfurians to reach consensus on core elements of a political settlement for Darfur, starting by uniting Darfurians on an agreement and then finalizing this agreement in negotiations with the Government of the Sudan. The Government of the Sudan expressed support for the Darfur political process and agreed with the Panel on the importance of an enabling environment — a setting conducive to an open, participatory and meaningful political process.

4. However, the Darfur political process has not yet been launched. For political and practical reasons, it has not proved feasible to launch the process as long as the Doha peace process was ongoing. The Panel repeatedly postponed the launch of the Darfur political process in order not to interfere with the Doha peace process, the completion of which was repeatedly delayed.

5. On 14 July 2011, the Panel's Chair attended the ceremony in Doha during which the Government of the Sudan and the Liberation and Justice Movement adopted the Doha Document for Peace in Darfur. The Panel welcomed the Document as a possible basis for the subsequent Darfur political process, which could, in turn, secure broader support for any final outcome document. The Panel viewed the Document as a point of departure for the envisaged political process, not as a predetermined outcome that the Darfur political process would merely be expected to endorse.

6. Following the conclusion of the Doha process, a second factor delaying the launch of the Darfur political process became dominant: namely, the international disagreement about the meaning and role of the enabling environment. The Panel has always insisted on an enabling environment as a condition for a meaningful and credible Darfur political process. Other international actors, however, have insisted on an enabling environment as a precondition for the launch of the process, and have imbued it with demands not directly related to the process. These disagreements have prevented the Darfur political process from being launched.

2. Justice and reconciliation

7. In its report, the African Union High-level Panel on Darfur made detailed recommendations for a justice and reconciliation strategy for Darfur, within the context of the advancement of peace and reconciliation in that region. The Panel proposed the adoption of several measures for strengthening the national criminal justice system, including the judiciary; the establishment of a hybrid criminal court to address crimes in Darfur; and the establishment of a truth, justice and reconciliation commission. In line with the recommendations in its report, the Panel has continued to engage the Government and actors in the justice sector to promote unilateral action to strengthen the criminal justice system in the Sudan and in Darfur, in particular.

8. Progress in implementing the recommendations contained in the Panel report has been slow and uneven. The justice infrastructure in Darfur remains inadequately resourced. Uncertainty about the security situation in Darfur continues to hamper

the administration of justice in all respects. Police stations and formal institutions of justice also remain out of the reach of most ordinary Darfurians. Frequent changes in personnel in the office of the Special Prosecutor, including the resignation of two Special Prosecutors to date, have interrupted continuity.

9. Clearly, there is need to build greater public confidence in the courts in Darfur and to pursue more actively cases arising from violations committed at the height of the conflict. Furthermore, unilateral measures, particularly within the criminal justice system, remain essential and, in this regard, the office of the Prosecutor, as the key initiator of criminal justice process, has an important role to play.

III. Negotiating the outstanding issues in the implementation of the Comprehensive Peace Agreement: 2011

10. The outstanding issues in the implementation of the Comprehensive Peace Agreement consisted of the South Sudan referendum, the situation in Abyei, including that region's referendum, the elections in South Kordofan, which had been delayed from 2010, the popular consultations in the two areas of South Kordofan and Blue Nile States, demarcation of the north-south border and security along the north-south border, in particular the future of the joint integrated units and the question of the Sudan People's Liberation Army (SPLA) in the two areas.

1. Southern Sudan referendum

11. The Panel closely monitored preparations and conduct, in January 2011, of the referendum on self-determination in southern Sudan. In the light of the risks of postponement and derailment of the process altogether, the Panel engaged President Omer Al-Bashir and then First Vice-President Salva Kiir in a sustained and public shuttle diplomacy.

12. Recognizing the need for civic behaviour in the referendum campaign, the Panel prepared a code of conduct for the referendums and popular consultations to serve as a guide for all parties, organizations, individuals and groups in all aspects and phases of the referendum process. The code was subscribed to by all 21 political parties that participated in the all southern Sudan political parties conference, held in October 2010 in Juba, including the National Congress Party (NCP).

2. Completion of the Comprehensive Peace Agreement in the two areas: Blue Nile and Southern Kordofan

13. The Panel was concerned both with the need to complete the implementation of the provisions of the Comprehensive Peace Agreement in the two areas of Blue Nile and Southern Kordofan, and also with the intrinsic shortcomings of the Agreement with respect to those areas, especially with regard to security arrangements. In that regard, the Panel followed the popular consultation process in Blue Nile State, monitored the state elections in Southern Kordofan and their aftermath, raising the issue of security arrangements for the SPLA forces originating from the two areas. Following the outbreak of conflict in Southern Kordofan, on 6 June 2011, the Panel took the lead in seeking a negotiated end to the conflict.

14. The process of popular consultation in Blue Nile began in September 2010, following the creation of the state government after the April 2010 elections. The

Panel was concerned that the popular consultation should be pursued not only in a technically proficient, free and fair manner, but also within a safe and stable political and security environment.

15. Two Panel missions to Blue Nile State, in December 2010 and February 2011, brought to light the fundamental grievances that endangered the exercise. The delayed establishment of the State Commission on Popular Consultation created complications in the Commission, which was unable to meet the 17 December deadline that should have marked the start of the citizen hearing process. Arising from this delay were apprehensions among some people in Blue Nile State that the process would be forestalled and paralysed in order to create a pretext to perpetuate the marginalization that the Comprehensive Peace Agreement was intended to address. The SPLM leadership in the State repeatedly raised fears that the NCP was seeking to derail the popular consultation process. The Panel met with the leadership of the NCP and SPLM, with the aim of addressing complaints and ensuring that the popular consultation remained on track.

16. Because of a dispute over the voter registration process and the preceding population census, state-level elections were not held in Southern Kordofan at the time of the April 2010 general elections. Following a new census and electoral register, and the demarcation of new state legislature constituencies, the state elections were finally scheduled for early May 2011. The Panel was concerned that this date, occurring after the southern Sudanese had voted for secession but before the SPLM had formally split into two parties, one for each successor state, could pose dangers to the process. Consequently, the Panel followed closely the preparations for the election and other political developments in the State, and also initiated talks on future security arrangements for the two areas. The two gubernatorial candidates, Ahmed Haroun (NCP) and Abdel Aziz al Hilu (SPLM), had been close political partners during the previous three years. However, a meeting between the two in January 2011 failed to maintain the political partnership, and they then entered into a fiercely competitive election.

17. A delegation of the African Union High-level Implementation Panel on the Sudan travelled to Southern Kordofan to observe the voting process. It witnessed a process marked by a high and enthusiastic turnout and a peaceful atmosphere. Only minor complaints were raised by party officials. However, residents expressed fears that the outcome was likely to be both close and contested, and that the situation warranted close attention.

18. Panel staff made a final visit to Southern Kordofan at the end of May 2011, as a result of which the Panel raised the alarm over heightened prospects for conflict in Southern Kordofan. The Panel intervened directly with President Al-Bashir and Vice-President Ali Osman Taha on this question.

3. Security negotiations for the two areas

19. The security cluster of the post-referendum arrangements negotiations met seven times, between July and December 2010, on a bilateral basis without external facilitators. The two cluster co-Chairs reached agreement on a host of issues, contained in a joint memorandum signed in December 2010 in the presence of the African Union High-level Implementation Panel on the Sudan. They set up architecture for north-south cooperation (the Joint Political and Security Mechanism) and agreed on the dissolution of the joint integrated units three months

following the anticipated vote for separation in the south. They did not discuss the issue of the SPLA forces from Southern Kordofan and Blue Nile, other than to include them in the schedule for dissolving the joint integrated units and to make an outline plan for the SPLA components of the units to be relocated to Kurmuk (Blue Nile) and Lake Abyad (Southern Kordofan/South Sudan border), respectively.

20. Consequently, at the time when the southern Sudanese voted for separation, the only agreements on the future status of the SPLA troops from the two areas were a single (disputed) provision in the Comprehensive Peace Agreement for the Joint Defence Board and the joint integrated units to continue until January 2012, with the provision that, in the event of separation, SPLA forces in the joint integrated units should return to their mother units and become part of the army of South Sudan, and a joint position paper that included the timings and locations for the redeployment southwards of those SPLA contingents.

21. Concerned about the neglect of the SPLA forces from the two areas, which numbered an estimated 30,000-40,000, Panel staff led a mission to the headquarters of the ninth and tenth divisions of the SPLA, in locations in southern Sudan adjacent to Southern Kordofan and Blue Nile States, respectively, in February 2011. Remarkably, this was the first international visit to the tenth division headquarters, at Guffa, since the signing of the Comprehensive Peace Agreement, and one of very few to the ninth division headquarters, at Lake Abyad.

22. The Panel scheduled a meeting with the Minister of Defence and the Minister of SPLA Affairs immediately thereafter, and put the issue of the SPLA troops from the two areas on the agenda. The meeting took place in Juba, in March 2011. The outcome included a decision to convene a special meeting of the security cluster, convened by the Panel, in Ethiopia, in the first week of April.

23. At the meeting, held from 3 to 6 April 2011, the Panel proposed the establishment of a joint command mechanism that would take over from the Joint Defence Board and the joint integrated units, enabling the SPLA forces in the two areas to remain in their home areas, with their distinct identities and command structure for a limited period, until they were integrated into the northern security apparatus, with the assistance of a third-party military advisory team. The Sudan Armed Forces (SAF) and SPLA delegations came very close to agreement, but left Ethiopia without a signed agreement.

24. Armed conflict broke out in Southern Kordofan on 6 June, giving added urgency to the Panel's plans to convene a high-level meeting of the parties in Addis Ababa to discuss the two areas. On the margins of the special summit on Abyei, the Panel facilitated a meeting between Assistant President Nafie Ali Nafie and the Governor of Blue Nile, Malik Agar Eyre of the SPLM, on 13 June. Over the following two weeks, the Panel engaged in intensive mediation efforts aimed at bringing an end to the armed conflict and reaching agreement on a path to an overall political settlement of the dispute.

25. The Panel's initial agenda included facilitating a cessation of hostilities and a framework for the political resolution of the conflict, including a formula for the security arrangements for the two areas. However, neither side was ready to prioritize the cessation of hostilities, and the talks floundered on the issue of whether to recognize the de facto status quo (in which the SPLA had overrun more than 50 positions previously occupied by the SAF) or to insist on a return to the

military positions as they had existed prior to 5 June 2011. Both parties argued that the political framework was paramount and, if agreement could be reached on that, all other issues would follow. The Panel also travelled to Southern Kordofan to meet with Abdel Aziz al Hilu and his senior military and political leadership on 16 June. All issues were discussed.

26. Between 17 and 28 June, the Panel conducted intensive negotiations that resulted in the signing of the framework agreement on political partnership between the NCP and SPLM and arrangements for the political future and security of the two areas. The framework agreement for the two areas was a major achievement and a testament to the willingness of the leaders on both sides to make significant compromises in pursuit of a solution. Unfortunately, the agreement was not implemented. Subsequently, the armed conflict escalated significantly with the outbreak of fighting in Blue Nile, the dismissal of Malik Agar from his position as Governor of the State by the President and the banning of the SPLM-North.

27. The Panel still believes that the framework agreement represents a fair and workable way forward and that, if implemented, it would resolve the conflict. The Panel expects that, in due course, the parties will return to the framework agreement or to a similar formula for this issue.

4. Borders: demarcation, disputed areas and institutional rationalization

28. During the reporting period, the Panel maintained focus on the north-south border issue. It continued to follow up with the Chairperson and Deputy Chairperson of the ad hoc technical committee for the demarcation of the north-south border, as well as with the borders negotiation cluster and the bilateral political committee.

29. The Panel acknowledged the deadlock within the ad hoc technical committee and called for a higher level of engagement to jumpstart the work of the committee in its meetings with the Presidents. The Panel also requested the African Union border programme to provide technical support to the parties. The border programme has undertaken three missions to the Sudan and has met with the ad hoc technical committee, the political committee and the Panel, in order to familiarize itself with technical issues.

30. During the month-long "super group" negotiations convened by the Panel in Addis Ababa in June 2011, the aim was to conclude an agreement on all border-related issues. These were: (a) the completion of the delimitation and demarcation of the border; (b) the settlement of disputed areas; and (c) the adoption of principles and institutions for managing a soft border between the two States, including the security arrangements along the common border.

31. The June negotiations managed to narrow the differences between the parties in a draft agreement on provisions on border issues, the last version of which was presented to the parties on 24 June 2011. This text is currently awaiting final approval and adoption by the two States. At issue now for the Panel is the format of future negotiations on this matter, given the pressing need for joint demarcation of the borders of Abyei and the clarification of the administrative boundaries in the disputed areas. Both these exercises are necessary in order to facilitate the security arrangements along the border area, including the deployment of the border

monitoring force protection to be provided by the United Nations Interim Security Force for Abyei (UNISFA).

5. Abyei and efforts to resolve the impasse

32. The Abyei question remains a crucial political and security issue that will have a significant impact on future relations between the Sudan and South Sudan. Following the failure of United States-brokered efforts to find a solution to the Abyei dispute in successive rounds of negotiations during September and October 2010, the issue was referred to the African Union High-level Implementation Panel on the Sudan. Presidents Al-Bashir and Kiir insisted that the matter be addressed at their level.

33. With the failure to hold the Abyei area referendum in January 2011, a solution to the Abyei question became more elusive. On 1 May, a major security incident in Abyei set in motion a series of events, culminating in fighting between SAF and SPLA forces in the area and sparking a security, political and humanitarian crisis that consumed the attention of both leaderships and the international community for the next month and which necessitated the formulation of an interim solution to address the immediate security challenges.

34. Realizing the implications of the fighting on already fragile north-south relations, the Panel proposed a summit between the two Presidents, the Panel and the Chairperson of the Intergovernmental Authority on Development, in Addis Ababa, on 12 and 13 June 2011. The summit resulted in an agreement that the SAF would withdraw their forces from Abyei, Ethiopian forces would deploy inside Abyei to provide for an interim security arrangement and a temporary administration would be established. This arrangement did not address, nor prejudge, a final resolution of the Abyei issue.

35. On 20 June, the negotiations produced the agreement on temporary arrangements for the administration and security of the Abyei Area, which called for the demilitarization of the Abyei Area and the deployment of a peacekeeping force, UNISFA, under a Chapter VII mandate. UNISFA began deploying immediately following the adoption of Security Council resolution 1990 (2011) on 27 June 2011. The Government of Ethiopia provided the troops. The key mandate of the force is to establish the humanitarian conditions necessary to allow internally displaced persons to return. It is also expected to create the conditions that would allow for the political and security processes that had stalled to resume.

36. In order to operationalize the other mechanisms provided for in the temporary agreement on Abyei, the Panel convened the parties in Addis Ababa on 8 September 2011, where the Abyei Joint Oversight Committee was inaugurated. In addition to the two parties, the Committee includes a representative of the African Union and the commander of UNISFA as non-voting members.

37. The Abyei Joint Oversight Committee is tasked with: (i) supervising and promoting security and stability in the Abyei Area; (ii) exercising political and administrative oversight of the Executive Council of the Abyei Area Administration (AAA); (iii) determining and advising on the size of the Abyei Police Service; and (iv) supporting UNISFA in the discharge of its mandate, including the creation of the necessary safe conditions for the return of internally displaced persons and demining of the Area to guarantee their safe resettlement.

38. At its inaugural meeting, the Abyei Joint Oversight Committee adopted a number of working documents, including its terms of reference and the plan and timeline for the redeployment of forces of both sides out of Abyei. The parties committed themselves to commence the withdrawal of forces from Abyei on 11 September, starting with the withdrawal of SAF forces from Abyei town, and to complete the withdrawal of all forces by 30 September. It was agreed that the Committee would meet on a monthly basis and that its next meeting would be held in Abyei town on 15 September. At that meeting, progress in the redeployment of forces out of Abyei would be reviewed.

39. In calling for the immediate redeployment of all forces from Abyei, the African Union High-level Implementation Panel on the Sudan was mindful of the impact of the crisis on the livelihoods of both the internally displaced Ngok Dinka and the Misseriya pastoralists. The Panel stressed the importance of the withdrawal of all SAF and SPLA-North forces from Abyei as a matter of urgency, to enable the return of the internally displaced persons in time for the second planting season of the year, which starts in mid-September. The Panel also reminded the parties that the pastoralist migration season was also due to start shortly, and it was imperative that they withdraw their forces from the area to enable the migration of Misseriya pastoralists to continue with minimum disruptions.

40. Despite the signing of the redeployment plan and the establishment of the Abyei Joint Oversight Committee on 8 September, at the time of finalizing this report there had been no redeployment of those forces remaining in Abyei, and the Committee had failed to meet. The Panel has been engaged in intensive discussions with the parties to try to get the Abyei process back on track.

6. Negotiating the post-referendum economic arrangements

41. The Panel's approach to the negotiations on economic arrangements has been based on the principles of the creation of two viable States and mutually beneficial economic cooperation, as agreed in the framework for resolving outstanding issues relating to the implementation of the Comprehensive Peace Agreement and the future relations of North and South of 13 November 2010.

42. By December 2010, it became clear that the cluster negotiating on economics, finance and natural resources, which had set up five subclusters, looking at assets and liabilities, oil, currency, water and transport and communications, was having difficulty convening at all, and had made limited progress, including on technical issues. The Panel, therefore, opened discussions with the African Development Bank (AfDB) to provide African expertise on economic issues to assist the parties. This provision of experts was agreed in January 2011. At the same time, the technical facilitation provided by the Government of Norway to the oil subcluster was integrated more closely into the overall mediation by the Panel.

43. On 1 March, the Panel invited the parties, lead negotiators and core economic teams to a one-day exposure event, in Ethiopia. The experts provided by the AfDB and the Government of Norway made presentations on the overall economic context of two viable States, external debt, currency and the management of the oil sector. These presentations laid the groundwork for three days of intensive negotiations, which resulted in agreed minutes and substantial progress on a number of technical issues related to currency, oil and debt.

44. To follow up on this progress, the Panel convened a second round of talks in Ethiopia, from 9 to 11 April. Further progress was made on the debt issue and there was discussion on how to handle assets. The Panel invited an International Monetary Fund (IMF) specialist to provide additional expertise on the currency issue, which was proving controversial. However, there was progress with a bipartisan committee on trade and related payments, supported by an AfDB expert. The co-Chairs and Secretaries of the water and transport and communications subclusters were also invited, to address the impasses they appeared to have reached.

45. From 15 to 18 April, the Panel attended the World Bank/IMF spring meetings in Washington, D.C., to press for debt relief for the Sudan as part of international support for the concept of two viable States. The Panel briefed both the Sudan debt technical working group and the policy-level Sudan round table on the status of negotiations on post-referendum arrangements, including the steps required to support two viable States after July 2011. The Panel also met senior representatives of major creditors, including the United States, the United Kingdom of Great Britain and Northern Ireland, China, Saudi Arabia, Denmark, the IMF and the World Bank, to discuss this issue.

46. The Panel reported back on these meetings to the parties at the third round of economic negotiations, held in Ethiopia from 19 to 21 May. Although the parties came close to agreement on a "zero option", by which the successor State of Sudan would retain all external assets and liabilities, progress on other issues was complicated by the deteriorating political atmosphere linked to developments in Abyei. The parties remained very far apart on the question of transitional financial arrangements, including the provision of transfers by South Sudan to ease the economic shock faced by the Sudan because of the loss of substantial revenues from oil following secession.

47. The Panel, therefore, decided that the economic issues had been matured as far as was possible in isolation. It invited the parties to fresh talks on the full range of post-referendum issues in Addis Ababa, which lasted for much of the month of June. During these meetings, negotiators agreed on a draft text on the issues of transport and communications and of assets and liabilities, which were passed on to the legal cluster for finalization. An agreement on water was also close to conclusion. However, substantial differences remained on the issues of transitional financial arrangements, oil and currency redemption. The parties, therefore, failed to agree on a full package before the independence of South Sudan forced a hiatus in the negotiations.

48. Following the independence of the Republic of South Sudan, and given the risk that there was now no basis for the continued flow of southern oil through the North, the Panel moved urgently to convene another meeting in Addis Ababa, in late July 2011, to discuss an interim arrangement to maintain the status quo. There was a wide gap between the parties on what would constitute appropriate monthly payments by South Sudan to the Sudan. Nevertheless, the Sudan did eventually announce that it would allow continued passage of southern oil through the pipeline, on credit, until the Panel could convene the next round of talks on a final agreement.

49. Since then, the Panel has engaged in intensive shuttle diplomacy to bring the Parties' positions closer together prior to convening another round of negotiations. The principle of two viable States remains the foundation of these efforts.

7. Security: Joint Political and Security Mechanism

50. In December 2010, the security cluster of the post-referendum negotiations agreed in principle to the establishment of a Joint Political and Security Mechanism that would have overall responsibility for managing security along the common border between the Sudan and South Sudan, as well as any other security issues that might arise between the two States. The Mechanism is the first between the two States.

51. At the Panel-facilitated meeting of the Minister of Defence and the Minister of SPLA Affairs held in Juba in March, the two parties agreed that, upon independence of South Sudan on 9 July, the Mechanism should become operational, taking over from the Joint Defence Board and all other security mechanisms established by the Comprehensive Peace Agreement.

52. The Panel convened negotiations on the management of security in the border zone, the Mechanism and related issues, in Ethiopia, in April 2011. A subsequent workshop on border security and third party role was held in Ethiopia, also in April, followed by a third meeting in Ethiopia, between 28 and 30 May. These meetings fleshed out elements of the operationalization of border security mechanisms, although many of the details, including the role of a potential third party, were left for future negotiations. At those meetings, agreement was also reached on the question of southerners employed by the SAF, according to which they were to be discharged, have their full end-of-service and pension entitlements paid and their files transferred to the Government of South Sudan for employment in the South Sudanese security services, as appropriate.

53. During the June 2011 negotiations in Addis Ababa, the Panel devoted much attention to finalizing the details of the Mechanism and what became known as the safe demilitarized border zone. Notably, it was agreed that UNISFA would provide force protection and logistical support for an international border monitoring mission. The parties signed an agreement on these issues on 29 June, with subsequent agreements on the details of the third party deployment following soon thereafter.

54. The first meeting of the Mechanism was held in Khartoum on 18 September 2011, convened jointly by the Minister of Defence of Sudan, Lieutenant-General Abdulrahim Mohammed Hussein, and his South Sudanese counterpart, General John Kong Nyuon, Minister for Defence and Veteran's Affairs, and facilitated by the Panel. The Mechanism deliberated and agreed on the composition of committees that are established in the agreement on border monitoring support mission signed on 30 July 2011. They also agreed on the mission headquarters in Tharjak, South Sudan, and the 10 corridors across the border.

8. Soft borders

55. Guided by the underlying principles of the framework for resolving outstanding issues relating to the implementation of the Comprehensive Peace Agreement and future relations of North and South Sudan, developed in November 2010, the Panel developed a draft agreement on cross-border issues that reflects the commitments between the two parties to continue to enhance political, economic and social relations between them, while ensuring each other's security. The framework also requires that the border be a bridge, facilitating free movement, as

well as economic and social activity for the benefit of the nationals of the two States, whose livelihoods require them to move across the border regularly.

9. Citizenship, nationality and freedoms

56. Following the work on the framework agreement of November 2010, the Panel continued to engage the parties on the issue of citizenship and related matters. The Panel's primary objective was to assist the parties in ensuring that South Sudan's secession would not result in statelessness and to avoid other possible individual hardship.

57. After several meetings of the citizenship cluster, it appeared that both parties subscribed to the principle of avoiding statelessness as a result of the secession, but could not reach agreement on how this principle should be upheld. The Panel then engaged each party separately on their draft legislation, stressing that any new or amended law should be generous in granting or upholding nationality. The Nationality Act of the Republic of South Sudan, signed into law on 7 July 2011, grants South Sudanese nationality on the basis of any of a wide range of ties to South Sudan.

58. Committed to avoiding other personal hardship, the parties agreed that the Sudanese people, whether in the Sudan or South Sudan, should be able to continue residing, working and enjoying other freedoms in the territory in which they lived prior to South Sudan's independence. To that end, they agreed that the nationals of the other State will enjoy certain "freedoms", in particular the freedom to move in and out of the State, the freedom to own property, the freedom to conduct economic activities and the freedom to reside, which encompasses freedoms such as the enjoyment of social services. During the June 2011 round of the negotiations held in Addis Ababa, the parties committed themselves to reaching a specific agreement on these freedoms soon after South Sudan's independence. The Panel has offered its assistance in completing this important task.

59. The parties have agreed that people whose status is affected by the secession have at least nine months to reconcile their status. The Panel has discussed with the parties that, for this transitional period to be meaningful, each State should as soon as possible instruct their officials and conduct public information campaigns on how people can obtain the required documents. Access to documentation will also require technical cooperation between the two States, requiring the establishment of a bilateral mechanism composed of representatives of the relevant ministries.

10. Legal issues and international treaties

60. While several aspects of the substance of the Panel's work have legal elements, the negotiations presented specific legal requirements that the legal and treaties cluster was established to address. The legal cluster was responsible for dealing with the question of the treaties under which South Sudan would continue to have obligations and, more generally, with legal aspects of the negotiations, including the drafting of final agreements and the development of the legal and institutional modalities for implementing the agreements reached in the context of the negotiations.

61. At the request of the Panel, the cluster convened in June 2011 to participate in the "super" negotiations where, among other things, it provided advice to the

various clusters on questions of law and drafting. During the negotiations, the Panel led the legal and treaties cluster in a number of sessions to review the various draft agreements and consider proposals on structures for future cooperation between the two States. The discussions with the cluster found expression in the draft agreements that the Panel presented to the parties for consideration.

11. Promoting democratic governance

62. Pursuant to article 226 (9) and (10), the interim national constitution of the Republic of Sudan continues to govern the Sudan after the end of the interim period until a permanent constitution is adopted; only the provisions related to South Sudan are deemed to have been duly repealed. Various political parties and civil society organizations have shared ideas with the Panel for a new Sudanese constitution, but to date there is no clarity on how the process of drafting a new constitution will be organized.

63. In southern Sudan, the formation of the technical committee for the review of the interim constitution of South Sudan of 2005 drew the Panel's attention. On 28 April, President Buyoya held consultations in Juba with President Salva Kiir, Minister John Luk of the Ministry of Justice, leading members of the SPLM negotiating team on north-south issues, and members of civil society to explore solutions to the issues related to the development of the constitution.